**HONOURABLE MRS. JUSTICE T.MEENA KUMARI**

**&**

**HONOURABLE MS JUSTICE G. ROHINI**

**WRIT PETITION No:19996 OF 1996**

**Dated:28.11.2007**

Between:

V. Damodara Naidu

..Petitioner

And

The Deputy Transport Commissioner and Secretary,
RTA, Chittoor, Chittoor District.

..Respondent.

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**HONOURABLE MRS. JUSTICE T.MEENA KUMARI**
**&**
**HONOURABLE MS JUSTICE G. ROHINI**

**WRIT PETITION No:19996 OF 1996**

**ORDER**: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the action of the respondent in issuing the demand notice bearing R.No.12021/A5/96, dated 9.9.1996 calling upon him to pay the taxes as well as imposing penalty in respect of the States other than the State of Andhra Pradesh as arbitrary and illegal and to issue consequential directions to set aside the same.

The main grievance of the petitioner is that he obtained national permit and that from 13.5.1994, he plied the vehicle only in the Home state and that he paid the tax for running his vehicle only in the State of A.P. periodically for the period from13.5.1994 to 12.5.1996 and the respondent also accepted the tax and therefore, the respondent is estopped from demanding that the petitioner ought to have paid the authorization fee and the composite taxes due to other States for the duration of national permit. It is further stated that the respondent seized the lorry for non-production of original documents, which were lost and in respect of which. a complaint has been lodged. Hence, the petitioner was constrained to file W.P.No.8031 of 1996 on the earlier occasion and pursuant to the directions in the said W.P., the vehicle was released. But the respondent issued a show cause notice, for which, an explanation was submitted. Since no orders have been passed, the petitioner was again constrained to

file W.P.No.14890 of 1996, in which, the respondent was directed to pass appropriate orders within three weeks from the date of the receipt of the order. Pursuant to which, the respondent, without considering the explanation, passed the impugned orders. Hence, the present writ petition.

Heard the learned Counsel appearing for the petitioner and the learned Government Pleader for Transport and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that the petitioner obtained national permit and it is valid to ply in all the states, for which the authorization fee is paid in the Home state and from 13.5.1994, the petitioner plied the vehicle only in the Home State and therefore, he is not liable to pay the tax as demanded and there is no need to surrender national permit.

On the other hand, the learned Government Pleader while relying upon Rule 87 of the Central Motor Vehicles Rules, 1989, submitted that the person having national permit is liable to pay composite fee in respect of the years covered by the period of national permit and when the petitioner does not want to ply his vehicle in other States, he has to surrender national permit and obtain a public carrier permit, but he has not done so and therefore, he is liable to pay the demanded taxes as well as penalty.

On hearing the rival contentions and perusal of the material available on record, it is apparent that it is an undisputed fact that the petitioner obtained national permit. But, the grievance of the

petitioner is that since he plied his vehicle only in the Home State for the period from 13.5.1994 to 12.5.1996, he is not liable to pay any composite tax or authorization fee for other States.

At this stage, it is relevant to go through the order impugned, which goes to show that the petitioner used the national permit from 13.5.1994 to 9.4.1996, without payment of authorization fee to Home State and composite taxes due to other states.

Irrespective of the fact whether the petitioner plied the vehicle in Home State or other States or whether he utilized the services under the national permit, it is obvious from the order impugned that the petitioner has failed to pay the fee even for the Home State services. Whatever it may be the grievance that is made by the petitioner, but, in view of the admitted fact that the petitioner has obtained the national permit and plied the vehicle, We have no hesitation to hold that that the petitioner has violated the provisions of the Central Motor Vehicles Rules.

In view of the violations of the provisions of the Rules, We feel that the decision reported in *M.C. Sunil V. Regional Transport Officer*[1], is in no way helpful to the case of the petitioner.

Therefore, the respondent is justified in passing the order impugned. We see no merits in this writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 28th November, 2007
Nn/Gurc.

**HONOURABLE MRS. JUSTICE T.MEENA KUMARI**
**&**
**HONOURABLE MS JUSTICE G. ROHINI**

**WRIT PETITION No:19996 OF 1996**

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

**28/11/2007**

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[1] AIR 2005 Kerala 221.